IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH NAGPUR

First Appeal No.541/2006

Office Notes, Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. : Court's or Judge's orders

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CORAM : A.P. Lavande, J.
Dated : September 22, 2006

By this appeal, the appellant-Oriental Insurance Company Limited takes exception to the judgment and award dated 28/3/2006 passed by Motor Accident Claims Tribunal, Nagpur in Claim Petition No.108/1997 awarding compensation of Rs. 1,23,600/- towards liability to respondent no.1.

Respondent no.1 – claimant filed the above claim petition claiming compensation of Rs. 4,15,000/- on account of grievous injuries sustained by him in an accident which occurred on 17/3/1991 at Katol road, Chhaoni, Nagpur. At the relevant time, the claimant was proceeding on Bajaj scooter and the owner who was

driving Premier car lost control and dashed against scooter causing grievous injuries to the claimant and damage to the scooter. In the claim petition filed by the claimant, the owner and the driver did not file their written statement. The Insurance Company filed written statement and denied rashness and negligence on the part of the driver. The claimant examined two witnesses and produced several documents. No evidence was led on behalf of the respondents in the claim petition.

After appreciating the evidence led by the claimant, the Tribunal held that the claimant who was 35 years old at the time of accident had suffered grievous injuries and damage was caused to the scooter on account of rash and negligent driving by the driver of the vehicle. The Tribunal assessed yearly income of the claimant at Rs. 21,000/- and relying upon the medical certificate disclosing disability of the claimant to the extent of 30% held that the claimant was entitled to compensation of

Rs. 1,23,600/- inclusive of no fault liability.

The only point urged by Mr. Quazi, learned counsel appearing on behalf of the appellant is that the compensation awarded by the Tribunal is excessive and, therefore, interference is called for in the appeal.

I have perused impugned judgment and award passed by the Tribunal. I do not find any ground to interfere with the findings given by the Tribunal. The evidence led by the claimant discloses that at the time of accident he was 35 years old and he had suffered disability to the extent of 30%. Insofar as the income is concerned, the Tribunal held that from the agricultural property owned by the family, the claimant could earn 500/- per month and considering the notional income Rs.15000/- assessed total income of the claimant at Rs. 21,000/- per annum. Thereafter applying multiplier of 17 and considering medical expenses, damages in respect of the scooter and for mental agony and pain assessed total compensation of

Rs. 1,23,600/-. Therefore, I am unable to accept the submission of Mr. Quazi that the compensation awarded by the Tribunal to the claimant is excessive. In any event, this is not a case in which the impugned judgment and award deserves to be interfered with at the instance of the Insurance Company. In my opinion, the compensation has been awarded by the Tribunal after taking into consideration the relevant factors. Therefore, I do not see any ground to interfere with impugned judgment and award passed by the Tribunal.

In the result, I do not find any ground to admit the appeal. Hence, the appeal is summarily rejected.

JUDGE

A.